IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 10226 of 2007(P)

PETITIONER:

CICILY BABY, W/O. BABY,
KODIYATH HOUSE, KUTTOOR P.O., THRISSUR.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

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1. THE REGISTRAR OF CO-OP. SOCIETIES,
TRIVANDRUM.

2. THE ASST. REGISTRAR OF CO-OP. SOCIETIES,
ARBITRATOR-CUM-SPECIAL OFFICER,
THRISSUR DISTRICT CO-OP. BANK LTD.,
KURUPPAM ROAD, THRISSUR.

3. THRISSUR DISTRICT CO-OP. BANK LTD.,
REPRESENTED BY MANAGER, WOMEN'S BRANCH,
PATTURACKAL, THRISSUR.

FOR R1 AND R2 GOVERNMENT PLEADER, SRI P.K.RAVIKRISHNAN
FOR R3 ADV. SRI.V.G.ARUN,SC,THRISSUR DIST.CO-OP BANK
SRI.T.R.HARIKUMAR,SC,THRISSUR DIST.CO.OP BANK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 10226 of 2007(P)

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE NOTICE ISSUED BY R2 DATED 06/02/2007

EXT.P2 TRUE COPY OF THE NOTICE DATED 9/3/2007 ISSUED BY THE 3RD RESPONDENT.

EXT.P3 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE HONOURABLE MINISTER FOR CO-OP.SOCIETIES LTD.

EXT.P4 TRUE COPY OF THE CIRCULAR NO.59/2006 DATED 30/11/2006

EXT.P5 TRUE COPY OF THE CIRCULAR NO.6/2007 DATED 24/1/2007

EXT.P6 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 13/3/2007.

\\TRUE COPY//

THOTTATHIL B. RADHAKRISHNAN, J.

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W.P.(C) No.10226 of 2007-P

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Dated this the 11th day of December, 2007

J U D G M E N T

The petitioner and her children, including Joju K.B., availed a loan from the third respondent but defaulted repayment, leading to filing of A.R.C No.303/2003. Joju filed W.P(C) No.26633/2005 when execution proceedings were taken. That writ petition was disposed of on 07/09/2005 granting relief by deferring the sale on condition that, amounts at the rate of Rs.2,50,000 is deposited per month, commencing from September, 2005. No amounts were paid. This led to further proceedings and institution of this writ petition against Ext.P1 sale notice.

2. Obviously, this Court was not impressed to grant an absolute stay and, on 29/03/2007, while admitting the writ petition, this Court had issued an interim order of stay till

18/06/2007 on condition that the petitioner pays an amount of Rs.8.5 lakhs.

3. I.A.No.7208/2007 was thereafter filed on 01/06/2007 taking the stand that when that interim order was pronounced in Court, the learned counsel for the petitioner took the amount to be paid as Rs.3.5 lakhs and issued communication to the petitioner, however that, when the copy of the order was received, it contained a clerical mistake showing the amount as Rs.8.5 lakhs.

4. The aforesaid contention does not stand because I find that the learned Judge, issuing the order on 29/11/2007, has issued the said order showing the amount Rs.8.5 lakhs in words as rupees eight lakhs and fifty thousand only, thereby excluding any confusion regarding the amount. Be that as it may, until now no amount has been paid. Except the expression of intention in the affidavit along with

I.A.No.7208/2007, to remit Rs.3.5 lakhs, nothing worthwhile is on record to show that the petitioner has paid off any portion of the debt.

I do not find any legal infirmity in the impugned proceedings and no grounds survive the conclusiveness obtained by the judgment in W.P.(C) No.26633/2005, the existence of which is not stated in this writ petition. The writ petition fails and the same is accordingly, dismissed.

THOTTATHIL B. RADHAKRISHNAN,
Judge

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